



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1835/P2

RLR:cjs&jd:nwn

Wanted by ~~cases~~  
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT *to repeal* 343.175 (3) (b); *to renumber* 343.175 (3) (a); *to amend* 71.05  
2 (10) (i) 1., 146.345 (title), (1) (a), (b) and (c) and (2), 146.82 (2) (a) 19., 155.20 (8),  
3 155.30 (1) (form), 230.35 (2d) (a) 2., 252.15 (2) (a) 1. and (am) 1. and 2. and (5)  
4 (a) 5., 343.17 (3) (b), 343.175 (1), 343.175 (1r), 343.175 (2) (title), 343.175 (2) (a),  
5 343.175 (2) (ag), 343.50 (3), 343.50 (4m) (a), 343.50 (4m) (b) and 343.50 (8) (b);  
6 and *to repeal and recreate* 157.06 of the statutes; **relating to:** anatomical  
7 gifts, granting rule-making authority, and providing a penalty.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 71.05 (10) (i) 1. of the statutes is amended to read:

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1           71.05 (10) (i) 1. Subject to the conditions in this paragraph, an individual may  
2 subtract up to \$10,000 from federal adjusted gross income if he or she, or his or her  
3 dependent who is claimed under section 151 (c) of the Internal Revenue Code, while  
4 living, donates ~~one or more of his or her human organs~~ all or part of his or her liver,  
5 pancreas, kidney, intestine, lung, or bone marrow to another human being for human  
6 organ transplantation, as defined in s. 146.345 (1), ~~except that in this paragraph,~~  
7 ~~“human organ” means all or part of a liver, pancreas, kidney, intestine, lung, or bone~~  
8 ~~marrow~~ (b). A subtract modification that is claimed under this paragraph may be  
9 claimed in the taxable year in which the ~~human organ~~ transplantation occurs.

10           **SECTION 2.** 146.345 (title), (1) (a), (b) and (c) and (2) of the statutes are amended  
11 to read:

12           **146.345 (title) Sale of human organs parts prohibited.**

13           (1) (a) “Human organ” means a human kidney, liver, heart, lung, pancreas,  
14 bone marrow, cornea, eye, bone or skin or any other human organ specified by the  
15 department by rule. ~~“Human organ” part~~ “Human organ part” has the meaning given for “part” in s.  
16 157.06 (2) (n), except that “human part” does not mean human whole blood, blood  
17 plasma, a blood product or a blood derivative or human semen.

18           (b) ~~“Human organ transplantation”~~ “Transplantation” means the medical  
19 procedure by which transfer of a human organ part is made from the body of a person  
20 to the body of another person.

21           (c) “Valuable consideration” does not include reasonable payment associated  
22 with the removal, transportation, implantation, processing, preservation, quality  
23 control ~~or, storage, or disposal~~ of a human organ part or an expense of travel, housing  
24 or lost wages incurred by a human organ part donor in connection with donation of  
25 the human organ part.

(2) No person may knowingly and for valuable consideration acquire, receive or otherwise transfer any human organ part for use in human-organ transplantation.

3           **SECTION 3.** 146.82 (2) (a) 19. of the statutes is amended to read:

146.82 (2) (a) 19. To an ~~organ~~ a procurement organization by a hospital  
pursuant to ~~s. 157.06 (5) (b) 1~~, as defined in s. 157.06 (2) (p), for the purpose of  
conducting an examination to ensure the medical suitability of a body part that is or  
could be the subject of an anatomical gift under s. 157.06.

8           **SECTION 4.** 155.20 (8) of the statutes is amended to read:

9           155.20 (8) A health care agent may make an anatomical gift under s. 157.06  
10       ~~(3) (a) 7. of all or a part of the principal's body after the principal's death unless the~~  
11       ~~principal made an unrevoked refusal to make that anatomical gift as provided under~~  
12       s. 157.06 (4) (b) or (9) (a) 1.

13           **SECTION 5.** 155.30 (1) (form) of the statutes is amended to read:

14 155.30 (1) (form)

## “NOTICE TO PERSON

## MAKING THIS DOCUMENT

17           YOU HAVE THE RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH  
18           CARE. NO HEALTH CARE MAY BE GIVEN TO YOU OVER YOUR OBJECTION,  
19           AND NECESSARY HEALTH CARE MAY NOT BE STOPPED OR WITHHELD IF  
20           YOU OBJECT.

21 BECAUSE YOUR HEALTH CARE PROVIDERS IN SOME CASES MAY NOT  
22 HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM  
23 RELATIONSHIP WITH YOU, THEY ARE OFTEN UNFAMILIAR WITH YOUR  
24 BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY

1 RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY  
2 OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

3 IN ORDER TO AVOID THIS PROBLEM, YOU MAY SIGN THIS LEGAL  
4 DOCUMENT TO SPECIFY THE PERSON WHOM YOU WANT TO MAKE  
5 HEALTH CARE DECISIONS FOR YOU IF YOU ARE UNABLE TO MAKE THOSE  
6 DECISIONS PERSONALLY. THAT PERSON IS KNOWN AS YOUR HEALTH  
7 CARE AGENT. YOU SHOULD TAKE SOME TIME TO DISCUSS YOUR  
8 THOUGHTS AND BELIEFS ABOUT MEDICAL TREATMENT WITH THE  
9 PERSON OR PERSONS WHOM YOU HAVE SPECIFIED. YOU MAY STATE IN  
10 THIS DOCUMENT ANY TYPES OF HEALTH CARE THAT YOU DO OR DO NOT  
11 DESIRE, AND YOU MAY LIMIT THE AUTHORITY OF YOUR HEALTH CARE  
12 AGENT. IF YOUR HEALTH CARE AGENT IS UNAWARE OF YOUR DESIRES  
13 WITH RESPECT TO A PARTICULAR HEALTH CARE DECISION, HE OR SHE IS  
14 REQUIRED TO DETERMINE WHAT WOULD BE IN YOUR BEST INTERESTS IN  
15 MAKING THE DECISION.

16 THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT  
17 BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. IT  
18 REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU  
19 MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY  
20 FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY  
21 DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN  
22 YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY  
23 STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF  
24 YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH CARE  
25 PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY.

1 IF YOUR AGENT IS YOUR SPOUSE AND YOUR MARRIAGE IS ANNULLED OR  
2 YOU ARE DIVORCED AFTER SIGNING THIS DOCUMENT, THE DOCUMENT  
3 IS INVALID.

4 YOU MAY ALSO USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE  
5 AN ANATOMICAL GIFT UPON YOUR DEATH. IF YOU USE THIS DOCUMENT  
6 TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT, THIS DOCUMENT  
7 REVOKES ANY PRIOR ~~DOCUMENT~~ RECORD OF GIFT THAT YOU MAY HAVE  
8 MADE. YOU MAY REVOKE OR CHANGE ANY ANATOMICAL GIFT THAT YOU  
9 MAKE BY THIS DOCUMENT BY CROSSING OUT THE ANATOMICAL GIFTS  
10 PROVISION IN THIS DOCUMENT.

11 DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND  
12 IT.

13 IT IS SUGGESTED THAT YOU KEEP THE ORIGINAL OF THIS  
14 DOCUMENT ON FILE WITH YOUR PHYSICIAN."

15 **SECTION 6.** 157.06 of the statutes is repealed and recreated to read:

16 **157.06 Anatomical gifts. (2) DEFINITIONS.** In this section:

17 (a) "Agent" means a health care agent, as defined in s. 155.01 (4), or an  
18 individual who is expressly authorized in a record that is signed by a principal to  
19 make an anatomical gift of the principal's body or part.

20 (b) "Anatomical gift" means a donation of all or part of a human body to take  
21 effect after the donor's death for the purpose of transplantation, therapy, research,  
22 or education.

23 (c) "Decedent" means a deceased individual.

24 (d) "Disinterested witness" means a witness who is not any of the following:

**SECTION 6**

1           1. The spouse, child, parent, sibling, grandchild, grandparent, or guardian of  
2 the individual who makes, amends, revokes, or refuses to make an anatomical gift.

3           2. A person who exhibits special care and concern, except as a compensated  
4 health care provider, for the individual who makes, amends, revokes, or refuses to  
5 make an anatomical gift.

6           3. Any other person to whom the anatomical gift could pass under sub. (11).

7           (e) "Donor" means an individual whose body or part is the subject of an  
8 anatomical gift.

9           (f) "Donor registry" means a database that contains records of anatomical gifts  
10 and amendments to or revocations of anatomical gifts.

11           (g) "Driver's license" means a license or permit to operate a vehicle, whether  
12 or not conditions are attached to the license or permit, that is issued by the  
13 department of transportation under ch. 343.

14           (h) "Eye bank" means a person that is licensed, accredited, or regulated under  
15 federal or state law to engage in the recovery, screening, testing, processing, storage,  
16 or distribution of human eyes or portions of human eyes.

17           (i) "Guardian" means a person appointed by a court to make decisions  
18 regarding the support, care, education, health, or welfare of an individual, and does  
19 not include a guardian ad litem.

20           (j) "Hospital" means a facility approved as a hospital under s. 50.35 or a facility  
21 operated as a hospital by the federal government, a state, or a political subdivision  
22 of a state.

23           (k) "Identification card" means an identification card issued by the department  
24 of transportation under s. 343.50.

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1 (L) "Organ procurement organization" means a person designated by the  
2 Secretary of the U.S. Department of Health and Human Services as an organ  
3 procurement organization.

4 (m) "Parent" has the meaning given under s. 48.02 (13).

5 (n) "Part" means ~~an~~ organ, eye, or tissue of a human being. "Part" does not  
6 mean a whole human body.

7 (o) "Physician" means an individual authorized to practice medicine or  
8 osteopathy under the laws of any state.

9 (p) "Procurement organization" means an eye bank, organ procurement  
10 organization, or tissue bank.

11 (q) "Prospective donor" means an individual who is dead or near death and has  
12 been determined by a procurement organization to have a part that could be  
13 medically suitable for transplantation, therapy, research, or education. An  
14 individual who has refused to make an anatomical gift as provided under sub. (7) is  
15 not a prospective donor.

16 (r) "Reasonably available" means able to be contacted by a procurement  
17 organization without undue effort and willing and able to act in a timely manner  
18 consistent with existing medical criteria necessary for the making of an anatomical  
19 gift.

20 (s) "Record" means information that is inscribed on a tangible medium or that  
21 is stored in an electronic or other medium and is retrievable in a perceivable form.

22 (t) "Record of gift" means a donor card or other record used to make an  
23 anatomical gift, including a statement or symbol on a driver's license or  
24 identification card or in a donor registry.

1 (u) "Record of refusal" means a record created under sub. (7) that expressly  
2 states an intent to bar other persons from making an anatomical gift of an  
3 individual's body or part.

4 (v) "Sign" means to do any of the following with present intent to authenticate  
5 or adopt a record:

6 1. Execute or adopt a signature or tangible symbol.

7 2. Attach to or logically associate with the record an electronic symbol, sound,  
8 or process.

9 (w) "Technician" means an individual determined to be qualified to remove or  
10 process parts by an appropriate organization that is licensed, accredited, or  
11 regulated under federal or state law and includes an enucleator.

12 (x) "Tissue" means a portion of the human body other than an organ or eye and  
13 does not include blood unless the blood is donated for the purpose of research or  
14 education.

15 (y) "Tissue bank" means a person that is licensed, accredited, or regulated  
16 under federal or state law to engage in the recovery, screening, testing, processing,  
17 storage, or distribution of tissue.

18 (z) "Transplant hospital" means a hospital that furnishes organ transplants  
19 and other medical and surgical specialty services required for the care of transplant  
20 patients.

21 (zm) "Vascularized organ" means a heart, lung, liver, pancreas, kidney,  
22 intestine, or other organ that requires the continuous circulation of blood to remain  
23 useful for purposes of transplantation.

24 **(2m) SIGNING FOR A PERSON WHO IS PHYSICALLY UNABLE.** If an individual who is  
25 physically unable to sign a record under sub. (5) (a) 4. or (b) 1., (6) (a) 1., (b) 1., (c) 1.,

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1 or (d) 1., or (7) (a) 1. or (b) 1. directs another to sign the record on his or her behalf,  
2 the signature of the other individual authenticates the record as long as all of the  
3 following conditions are satisfied:

4 (a) The signature of the other individual is witnessed by at least two adults, at  
5 least one of whom is a disinterested witness.

6 (b) The witnesses sign the record at the request of the individual who is  
7 physically unable to sign.

8 (c) The record includes a statement that it was signed and witnessed at the  
9 request of the individual who is physically unable to sign.

10 (4) WHO MAY MAKE AN ANATOMICAL GIFT BEFORE DONOR'S DEATH. Except as  
11 provided in subs. (7) and (8), any of the following may during the life of a donor make  
12 an anatomical gift of the donor's body or part in the manner provided in sub. (5):

13 (a) The donor, if he or she is at least 15 and one-half years of age or is an  
14 emancipated minor.

15 (b) An agent of the donor, unless the donor's power of attorney for health care  
16 instrument under ch. 155 or some other record prohibits the agent from making an  
17 anatomical gift.

18 (c) A parent of the donor, if the donor is an unemancipated minor.

19 (d) A guardian of the donor unless a health care agent under ch. 155 has  
20 authority to make an anatomical gift of the donor's body or part.

21 (5) MANNER OF MAKING AN ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) A donor  
22 under sub. (4) (a) may make an anatomical gift by doing any of the following:

23 1. Affixing to, or authorizing a person to imprint on, the donor's driver's license  
24 or identification card a statement or symbol that indicates that the donor has made  
25 an anatomical gift.

and does not  
object to the  
making of the anatomical gift

1           2. Including an anatomical gift in his or her will.

2           3. If the donor has a terminal illness or injury, communicating the anatomical  
3 gift by any means to at least two adults, at least one of whom is a disinterested  
4 witness.

5           4. Signing a donor card or other record that includes an anatomical gift or, if  
6 physically unable to sign a record, by directing another individual to sign the record  
7 as provided in sub. (2m).

8           5. Authorizing a person to include in a donor registry a statement or symbol  
9 that indicates that the donor has made an anatomical gift.

10          (b) A person under sub. (4) (b) to (d) may make an anatomical gift of a donor's  
11 body or part during the donor's life by doing any of the following:

12           1. Signing a donor card or other record that includes an anatomical gift or, if  
13 physically unable to sign a record, by directing another to sign the record as provided  
14 in sub. (2m).

15           2. Authorizing another to include in a donor registry a statement or symbol that  
16 indicates that the person has made an anatomical gift of the donor's body or part.

17           (c) The revocation, suspension, expiration, or cancellation of a driver's license  
18 or identification card on which an anatomical gift has been made does not invalidate  
19 the anatomical gift.

20           (d) An anatomical gift made by will takes effect upon the donor's death whether  
21 or not the will is probated. Invalidation of the will after the donor's death does not  
22 invalidate the anatomical gift.

23          **(6) AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.** (a) Subject  
24 to sub. (8), a donor may amend an anatomical gift of his her body or part by doing any  
25 of the following:

1           1. Signing a record that amends the anatomical gift or, if physically unable to  
2 sign, directing another to sign the record as provided in sub. (2m).

3           2. Subsequently executing a record of gift that amends a previously executed  
4 anatomical gift or a portion of a previously executed anatomical gift either expressly  
5 or by inconsistency.

6           3. If the anatomical gift was not made in a will and the donor has a terminal  
7 illness or injury, communicating in any manner an amendment of the anatomical gift  
8 to at least two adults, at least one of whom is a disinterested witness.

9           4. If the anatomical gift was made in a will, amending the will.

10          (b) Subject to sub. (8), a donor may revoke an anatomical gift of his or her body  
11 or part by doing any of the following:

12           1. Signing a record that revokes the anatomical gift or, if physically unable to  
13 sign, directing another to sign the record as provided in sub. (2m).

14           2. Subsequently executing a record of gift that revokes a previously executed  
15 anatomical gift or a portion of a previously executed anatomical gift either expressly  
16 or by inconsistency.

17           3. If the anatomical gift was not made in a will and if the donor has a terminal  
18 illness or injury, communicating in any manner the revocation of the anatomical gift  
19 to at least two adults, at least one of whom is a disinterested witness.

20           4. If the anatomical gift was made in a will, amending or revoking the will.

21           5. If the anatomical gift was made in a record of gift, destroying or cancelling  
22 the record of gift, or the portion of the record of gift used to make the anatomical gift,  
23 with intent to revoke the anatomical gift.

1 (c) Subject to sub. (8), a person who is authorized to make an anatomical gift  
2 under sub. (4) (b) to (d) may amend an anatomical gift of a donor's body or part before  
3 the donor's death by doing any of the following:

4 1. Signing a record that amends the anatomical gift or, if physically unable to  
5 sign, directing another to sign the record as provided in sub. (2m).

6 2. Subsequently executing a record of gift that amends a previously executed  
7 anatomical gift or a portion of a previously executed anatomical gift either expressly  
8 or by inconsistency.

9 (d) Subject to sub. (8), a person who is authorized to make an anatomical gift  
10 under sub. (4) (b) to (d) may revoke an anatomical gift of a donor's body or part before  
11 the donor's death by doing any of the following:

12 1. Signing a record that revokes the anatomical gift or, if physically unable to  
13 sign, directing another to sign the record as provided in sub. (2m).

14 2. Subsequently executing a record of gift that revokes a previously executed  
15 anatomical gift or a portion of a previously executed anatomical gift either expressly  
16 or by inconsistency.

17 3. If the anatomical gift was made in a record of gift, destroying or cancelling  
18 the record of gift, or the portion of the record of gift used to make the anatomical gift,  
19 with intent to revoke the anatomical gift.

20 **(7) REFUSAL TO MAKE AN ANATOMICAL GIFT; EFFECT OF REFUSAL.** (a) An individual  
21 may refuse to make an anatomical gift of the individual's body or part by doing any  
22 of the following:

23 1. Signing a record refusing to make an anatomical gift or, if physically unable  
24 to sign, directing another to sign the record as provided in sub. (2m).

1           2. Including a refusal to make an anatomical gift in the individual's will,  
2           whether or not the will is admitted to probate or invalidated after the individual's  
3           death.

4           3. If the individual has a terminal illness or injury, communicating in any  
5           manner a refusal to make an anatomical gift to at least two adults, at least one of  
6           whom is a disinterested witness.

7           (b) An individual who has made a refusal to make an anatomical gift under this  
8           subsection may amend or revoke the refusal to make an anatomical gift by doing any  
9           of the following:

10          1. Signing a record amending or revoking the refusal to make an anatomical  
11          gift or, if physically unable to sign, directing another to sign the record as provided  
12          in sub. (2m).

13          2. If the refusal to make an anatomical gift was made in the individual's will,  
14          amending or revoking the will, whether or not the will is admitted to probate or  
15          invalidated after the individual's death.

16          3. If the individual has a terminal illness or injury, communicating in any  
17          manner an amendment to or revocation of the refusal to make an anatomical gift to  
18          at least two adults, at least one of whom is a disinterested witness.

19          4. Subsequently making an anatomical gift as provided under sub. (5) (a) that  
20          is inconsistent with the refusal to make an anatomical gift.

21          5. If the refusal to make an anatomical gift was made in a record of refusal,  
22          destroying or canceling the record of refusal, or the portion of the record of refusal,  
23          that evidenced the refusal to make an anatomical gift, with intent to revoke the  
24          refusal to make an anatomical gift.

1 (c) Except as provided in sub. (8) (h), in the absence of an express, contrary  
2 indication by an individual set forth in a refusal to make an anatomical gift under  
3 this subsection, the individual's unrevoked refusal to make an anatomical gift under  
4 this subsection of his or her body or part bars all other persons from making an  
5 anatomical gift of the individual's body or part.

6 (8) PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION. (a)  
7 Except as provided in par. (g) and subject to par. (f), in the absence of an express,  
8 contrary indication by the donor, a person other than the donor may not make,  
9 amend, or revoke an anatomical gift of the donor's body or part if the donor has made  
10 an unrevoked anatomical gift of his or her body or that part under sub. (5) (a) or an  
11 amendment to an anatomical gift of the donor's body or that part under sub. (6) (a).

12 (b) A donor's revocation of an anatomical gift of the donor's body or part under  
13 sub. (6) (b) is not a refusal to make an anatomical gift and does not bar another person  
14 authorized to make an anatomical gift under sub. (4) from making an anatomical gift  
15 of the donor's body or part under sub. (5) and does not bar a person who is authorized  
16 to make an anatomical gift under sub. (9) from making an anatomical gift under sub.  
17 (10).

18 (c) If a person other than the donor makes an unrevoked anatomical gift of the  
19 donor's body or part under sub. (5) (b) or an amendment to an anatomical gift of the  
20 donor's body or part under sub. (6) (c), another person may not amend or revoke the  
21 anatomical gift under sub. (10) or otherwise make an anatomical gift of the body or  
22 part under sub. (10).

23 (d) If a person other than the donor revokes an anatomical gift of the donor's  
24 body or part under sub. (6) (d), the revocation does not bar another person from  
25 making an anatomical gift of the donor's body or part under sub. (5) or (10).

1           (e) An anatomical gift of a part of a donor's body that is made under sub. (5) or  
2           in an amendment under sub. (6), absent an express, contrary indication by the donor  
3           or other person who made the anatomical gift, is not a refusal by the donor to make  
4           an anatomical gift of another part of the donor's body or a limitation on a later  
5           anatomical gift of another part of the donor's body.

6           (f) An anatomical gift of a part that is made under sub. (5) or in an amendment  
7           under sub. (6) for a specified purpose for which an anatomical gift may be made,  
8           absent an express, contrary indication by the person who made the anatomical gift,  
9           does not limit a person from making an anatomical gift of the part under sub. (5), (6),  
10          or (10) for any of the other purposes for which an anatomical gift may be made.

11          (g) If a donor who is an unemancipated minor dies, a parent of the donor who  
12          is reasonably available may revoke or amend an anatomical gift of the donor's body  
13          or part.

14          (h) If an unemancipated minor who has made a refusal to make an anatomical  
15          gift under sub. (7) dies, a reasonably available parent of the minor may revoke the  
16          minor's refusal to make an anatomical gift.

17          **(9) WHO MAY MAKE AN ANATOMICAL GIFT NEAR OR UPON THE DONOR'S DEATH.** (a)  
18          Except as provided in subs. (7) and (8) and subject to pars. (b) and (c), any member  
19          of the following classes of persons, in the order of priority listed, who is reasonably  
20          available may, in the manner provided in sub. (10), make an anatomical gift of the  
21          body or part of an individual who is near death or has died:

22                1. A person who is the individual's agent near or at the time of the individual's  
23                death and has authority under sub. (4) (b) to make an anatomical gift of the  
24                decedent's body or part.

25                2. The spouse of the individual.

1           3. The adult children of the individual.

2           4. The parents of the individual.

3           5. The adult siblings of the individual.

4           6. The adult grandchildren of the individual.

5           7. The grandparents of the individual.

6           8. Adults who exhibited special care and concern, except as a compensated  
7 health care provider, for the individual.

8           9. Persons who were guardians of the individual near or at the time of the  
9 individual's death.

10          10. Any other persons who have authority to dispose of the individual's body.

11          (b) If the members of a class of persons under par. (a) 1., 3., 4., 5., 6., 7., or 9.  
12 have priority to make an anatomical gift of an individual's body or part under par.

13 (a) and the class consists of more than one member, any member of the class may  
14 make an anatomical gift unless that member or the person to whom the anatomical  
15 gift will pass under sub. (11) has actual knowledge of an objection by another member  
16 of the class, in which case the anatomical gift may be made only by a majority of  
17 members of the class who are reasonably available.

18          (c) A person may not make an anatomical gift of an individual's body or part  
19 under this subsection if a person who is a member of a class with higher priority  
20 under par. (a) is reasonably available.

21          **(10) MANNER OF MAKING, AMENDING, OR REVOKING AN ANATOMICAL GIFT NEAR OR**  
22 **UPON DONOR'S DEATH.** (a) A person authorized under sub. (9) to make an anatomical  
23 gift of an individual's body or part may do so by doing any of the following:

24           1. Signing a record of gift.



1           2. Subject to sub. (25m) (c), making an oral communication of an anatomical  
2 gift that is electronically recorded.

3           3. Subject to sub. (25m) (c), making an oral communication of an anatomical  
4 gift that is contemporaneously reduced to a record and that is signed by the  
5 individual receiving the oral communication.

6           (b) A member of a class of persons that has higher priority to make an  
7 anatomical gift under sub. (9) than the person who made an anatomical gift under  
8 par. (a) and who is reasonably available may amend the anatomical gift in the  
9 manner provided in par. (d), except that if more than one member of the class with  
10 higher priority is reasonably available, the agreement of a majority of the reasonably  
11 available members is required to amend the anatomical gift.

12           (c) 1. Subject to subd. 2., a member of a class of persons that has higher priority  
13 to make an anatomical gift under sub. (9) than the person who made an anatomical  
14 gift under par. (a) may revoke the anatomical gift in the manner provided in par. (d),  
15 except that if more than one member of the class with higher priority is reasonably  
16 available, the agreement of at least one-half of the reasonably available members  
17 is required to revoke the anatomical gift.

18           2. A revocation of an anatomical gift under subd. 1. is effective only if before  
19 an incision is made to remove a part from the donor's body or before invasive  
20 procedures have been begun to prepare the recipient, the procurement organization,  
21 transplant hospital, or physician or technician has actual knowledge of the  
22 revocation.

23           (d) A person who is authorized to amend or revoke an anatomical gift under par.  
24 (b) or (c) may do so orally or by including the amendment or revocation in a record.

1           (11) PERSONS THAT MAY RECEIVE ANATOMICAL GIFTS; PURPOSE OF GIFTS. (a) An  
2 anatomical gift may be made to any of the following persons:

3           1. For the purpose of research or education, a hospital, accredited medical  
4 school, dental school, college, university, organ procurement organization, or other  
5 appropriate person.

6           2. Subject to par. (b) 1., an individual designated by the person making the  
7 anatomical gift into which individual's body a part is intended to be transplanted.

8           3. An eye bank or tissue bank.

9           4. An organ procurement organization, as custodian of a part for transplant or  
10 therapy.

11           (b) 1. If a part that is the subject of an anatomical gift made to an individual  
12 under par. (a) 2. cannot be transplanted into the individual, the part passes as  
13 provided in par. (f) absent an express, contrary indication by the person making the  
14 anatomical gift.

15           2. If tissue that is the subject of an anatomical gift made to an organ  
16 procurement organization is unsuitable for transplantation or therapy, the organ  
17 procurement organization may give the tissue to an appropriate person for research  
18 or education if authorized to do so by the person who made the anatomical gift.

19           (c) If an anatomical gift of one or more parts does not name a person under (a)  
20 1. to 4. as the person to whom the anatomical gift is made, but identifies the purpose  
21 of the anatomical gift, all of the following apply:

22           1. If the purpose of the anatomical gift is transplantation or therapy, the part  
23 passes as provided in par. (f).

24           2. If the purpose of the anatomical gift is research or education, the part passes  
25 to the appropriate procurement organization.

1           3. If an anatomical gift is for more than one purpose, but the purposes are not  
2     set forth in any priority, the part shall be used for transplantation or therapy, if  
3     suitable, and if the part cannot be used for transplantation or therapy, may be used  
4     for research or education.

5           (d) If an anatomical gift of one or more parts does not name a person under par.  
6     (a) 1. to 4. as the person to whom the anatomical gift is made and does not identify  
7     the purpose of the anatomical gift, the parts may be used only for transplantation or  
8     therapy, and the parts pass as provided in par. (f).

9           (e) If an anatomical gift specifies only a general intent to make an anatomical  
10    gift by words such as "donor," "organ donor," or "body donor," or by a symbol or  
11    statement of similar meaning, the anatomical gift may be used only for the purpose  
12    of transplantation or therapy, and the parts pass as provided in par. (f).

13          (f) If par. (b) 1., (c) 1., (d), or (e) applies, all of the following apply:

14          1. If the part is an eye, the part passes to the appropriate eye bank.

15          2. If the part is tissue, the part passes to the appropriate tissue bank.

16          3. If the part is an organ, the part passes to to the appropriate organ  
17    procurement organization as custodian of the organ.

18          (g) If a body or part that is the subject of an anatomical gift does not pass  
19    pursuant to pars. (a) to (e) or is not used for transplantation, therapy, research, or  
20    education, custody of the body or part passes to the person who is obligated to dispose  
21    of the body or part.

22          (h) A person may not accept an anatomical gift of a decedent's body or part if  
23    the person has actual knowledge that the anatomical gift was not made as provided  
24    in sub. (5), (6), or (10) or if the person has actual knowledge that the decedent made  
25    a refusal to make an anatomical gift under sub. (7) that was not revoked. For

1 purposes of this paragraph, if a person has actual knowledge that an anatomical gift  
2 was made on a record of gift, the person is deemed to have actual knowledge of any  
3 amendment or revocation of the anatomical gift or any refusal to make an anatomical  
4 gift that is on the same record of gift.

5 (i) Except as provided under par. (a) 2., nothing in this section affects the  
6 allocation of organs for transplantation or therapy.

7 **(12) SEARCH AND NOTIFICATION.** (a) If any of the following persons reasonably  
8 believes an individual to be dead or near death, the person shall make a reasonable  
9 search of the individual for a record of gift or a record of refusal or other information  
10 identifying the individual as a donor or as an individual who has refused to make an  
11 anatomical gift.

12 1. A law enforcement officer, fire fighter, emergency medical technician, first  
13 responder, or ambulance service provider.

14 2. If no other source of information is immediately available, a hospital, as soon  
15 as practical after the individual's arrival at the hospital.

16 (b) If a record of gift or record of refusal is located by a search under par. (a) 1.,  
17 and the individual or deceased individual to whom the record or gift or record of  
18 refusal relates is taken to a hospital, the person responsible for conducting the search  
19 shall send the record of gift or record of refusal to the hospital.

20 (c) A person is immune from any criminal or civil liability for failure to  
21 discharge the duties imposed under this subsection but may be subject to an  
22 administrative sanction for such failure.

23 **(13) DELIVERY OF RECORD OF GIFT NOT REQUIRED; RIGHT TO EXAMINE.** (a) A record  
24 of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person who has possession of a record of gift or a record of refusal relating to the individual's body or part shall allow any person who is authorized to revoke, make, or object to the making of an anatomical gift of the individual's body or part, and any person to whom the body or part could pass under sub. (11), to examine and copy the record of gift or record of refusal.

(14) RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS. (a) A procurement organization shall do all of the following when a hospital refers an individual who is near death or who is deceased to the procurement organization:

1. Make a reasonable search of the records of the department of transportation and of any donor registry, of whose existence it has actual knowledge, for the geographical area in which the individual resides or resided to ascertain whether the individual is a donor.

2. If the individual is a prospective donor, make a reasonable search for any person under sub. (9) having priority to make an anatomical gift of the individual's body or part.

3. If the individual referred is a minor who is a donor or who made an unrevoked refusal to make an anatomical gift, unless the procurement organization has actual knowledge that the minor was emancipated, conduct a reasonable search for the parents of the minor and provide the parents an opportunity to revoke or amend the anatomical gift or refusal relating to the minor.

4. If the procurement agency receives information about an anatomical gift of the individual's body or part that under sub. (11) passes to a person other than the procurement organization, promptly advise the other person of relevant information regarding the anatomical gift.

organization

1 (b) When a hospital refers an individual at or near death to a procurement  
2 organization, the procurement organization may conduct any reasonable  
3 examination to determine whether a part of the individual that is or could be the  
4 subject of an anatomical gift is medically suitable for transplantation, therapy,  
5 research, or education. Unless otherwise prohibited by law, an examination under  
6 this paragraph may include an examination of all of the individual's medical or  
7 dental records. During the examination period, measures necessary to ensure the  
8 medical suitability of the part may not be withdrawn unless the hospital or  
9 procurement organization has actual knowledge that the individual expressed a  
10 contrary intent.

11 (c) Unless otherwise prohibited by law, at any time after a donor's death, the  
12 person to whom the donor's body or part passes under sub. (11) may conduct any  
13 reasonable examination, including an examination of all of the donor's medical or  
14 dental records, to determine the medical suitability of the donor's body or part for its  
15 intended purpose.

16 (d) Subject to subs. (11) (g), (22m), and (23m), the rights of the person to whom  
17 an anatomical gift of a part passes under sub. (11) are superior to the rights of all  
18 others with respect to a part. The person may accept or reject an anatomical gift in  
19 whole or in part. A person who accepts an anatomical gift of a part shall cause the  
20 part to be removed from the donor's body after the death of the donor and before  
21 embalming, burial, or cremation and without unnecessary mutilation.

22 (e) A person who accepts an anatomical gift of an entire body may, subject to  
23 the terms of an anatomical gift and this section, allow embalming, burial, cremation,  
24 or use of the remains of the body in a funeral service.

1 (f) A physician who attends a decedent at death or determines the time of death  
2 may not participate in the procedures for removing or transplanting a part from the  
3 decedent.

4 (g) A physician or technician may remove from the body of a donor a donated  
5 part that the physician or technician is qualified to remove.

6 **(14m)** COORDINATION OF PROCUREMENT AND USE; DUTIES OF HOSPITALS. Each  
7 hospital shall do all of the following:

8 (a) Enter into agreements or affiliations with procurement organizations for  
9 coordination of procurement and use of bodies and parts that are the subject of  
10 anatomical gifts, including the following:

11 1. An agreement with an organ procurement organization to notify the organ  
12 procurement organization or its designee in a timely manner of individuals whose  
13 death is imminent or who have died in the hospital.

14 2. Agreements with at least one tissue bank and at least one eye bank to  
15 cooperate in the retrieval, processing, preservation, storage, and distribution of  
16 tissues and eyes to assure that all usable tissues and eyes are obtained from potential  
17 donors, as long as such agreements do not interfere with the procurement of organs.

18 (b) Ensure, in collaboration with the organ procurement organization with  
19 which the hospital has an agreement under par. (a) 1. that the family of each  
20 potential donor is informed of its options to donate organs, tissues, or eyes or to refuse  
21 to donate organs, tissues, or eyes.

22 (c) Ensure that the individual who requests family members of potential donors  
23 to make anatomical gifts of organs, tissues, or eyes is either an organ procurement  
24 representative or has completed a course on the methodology for approaching  
25 persons to request that they make anatomical gifts, which course is designed in

1 conjunction with the tissue and eye bank community and offered or approved by the  
2 organ procurement organization with which the hospital has an agreement under  
3 par. (a) 1.

4 (d) Ensure that requests of family members of potential donors to make  
5 anatomical gifts of organs, tissues, or eyes are made with discretion and sensibility  
6 with respect to the circumstances, views, and beliefs of the families of potential  
7 donors.

8 (e) Ensure that the hospital works cooperatively with the procurement  
9 organizations with which it has agreements with under par. (a) in educating staff on  
10 donation issues, reviewing death records to improve identification of potential  
11 donors, and maintaining potential donors while necessary testing and placement of  
12 potential donated organs, tissues, and eyes takes place.

13 (17) PROHIBITED ACTS RELATED TO RECORDS. Any person who intentionally  
14 falsifies, forges, conceals, defaces, or obliterates a record of gift, an amendment or  
15 revocation of a record of gift, or a record of refusal for pecuniary gain is guilty of a  
16 Class H felony, except that notwithstanding the maximum fine specified in s. 939.50  
17 (3) (h), the person may be fined not more than \$50,000.

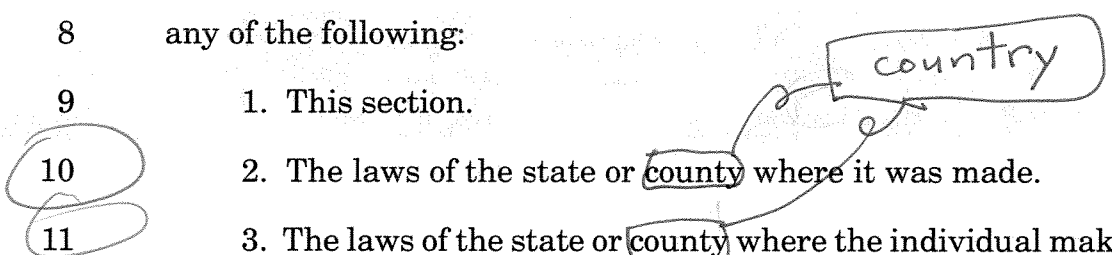
18 (18) IMMUNITY. (a) A person who acts, or in good faith attempts to act, in  
19 accordance with this section or with the applicable anatomical gift law of another  
20 state is not liable for the act in a civil action, criminal prosecution, or administrative  
21 proceeding.

22 (b) A person who makes an anatomical gift and the person's estate are not liable  
23 for any injury or damage that results from the making of the anatomical gift or the  
24 use of the body or any part that is the subject of the anatomical gift.



1 (c) A person may rely on a representation made by an individual purporting to  
2 be an individual listed under sub. (9) (a) 2., 3., 4., 5., 6., 7., or 8. as to the individual's  
3 relation to a donor or prospective donor in determining whether an anatomical gift  
4 of the donor's or prospective donor's body or part has been made, amended, or  
5 revoked.

6 (19) LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO MAKING OF ANATOMICAL GIFT;  
7 PRESUMPTION OF VALIDITY. (a) An anatomical gift is valid if made in accordance with  
8 any of the following:

- 9 1. This section.
- 10 2. The laws of the state or country where it was made.
- 11 3. The laws of the state or country where the individual making the anatomical  
12 gift was domiciled, had a place of residence, or was a national at the time the  
13 anatomical gift was made.
- 

14 (b) If an anatomical gift is valid under this subsection, the law of this state  
15 governs the interpretation of the anatomical gift.

16 (c) A person may presume that an anatomical gift or an amendment of an  
17 anatomical gift is valid unless the person has actual knowledge that it was not  
18 validly made or was revoked.

19 (20) DONOR REGISTRY. The department of health and family services may  
20 establish a donor registry. If the department of health and family services  
21 establishes a donor registry under this subsection, the department of transportation  
22 shall cooperate with the department of health and family services in establishing the  
23 donor registry. The department of health and family services shall promulgate  
24 administrative rules governing any donor registry established under this  
25 paragraph.

1           **(21)** EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH CARE DIRECTIVE. If a  
2       prospective donor executed a declaration, as defined in s. 154.02 (1), or a power of  
3       attorney for health care instrument under ch. 155, measures necessary to ensure the  
4       medical suitability of an organ for transplantation or therapy may not be withheld  
5       or withdrawn from the prospective donor unless the declaration or power of attorney  
6       for health care instrument expressly provides to the contrary.

7           **(22m)** AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; NO EVIDENCE OF  
8       ANATOMICAL GIFT. (ag) If a decedent is within the custody of a coroner or medical  
9       examiner and if there is no evidence that an anatomical gift of the decedent's body  
10      or part has been made or that the decedent has refused to make an anatomical gift,  
11      the coroner or medical examiner shall contact by telephone the organ procurement  
12      organization designated for the region in which the death occurs. The coroner or  
13      medical examiner shall provide the organ procurement organization with  
14      information, if known to the coroner or medical examiner, concerning the decedent's  
15      age, the cause of the decedent's death and, if available, the decedent's medical  
16      history.

17           (am) The coroner or medical examiner may release and permit the removal of  
18      a part from a decedent specified in par. (ag) within that official's custody, for  
19      transplantation or therapy, including to a tissue bank under the requirements of sub.  
20      (24m), if all of the following apply:

21           1. The official has received a request for the part from a hospital, physician, or  
22      organ procurement organization.

23           2. The official has made a reasonable effort, taking into account the useful life  
24      of the part, to locate and examine the decedent's medical records and, subject to sub.

1 (25m), inform persons listed in sub. (9) of their option to make, or object to making,  
2 an anatomical gift.

3 3. The official does not have actual knowledge of a refusal to make an  
4 anatomical gift or contrary indication by the decedent or of an objection by a person  
5 having priority to act as listed in sub. (9).

6 4. The removal will be by a physician, except for the following:

7 a. In the case of eyes, the removal may be by a physician or by an enucleator.

8 b. In the case of tissue or bone, the removal may be by a physician or by a  
9 technician.

10 5. The removal will not interfere with any autopsy or investigation.

11 6. The removal will be in accordance with accepted medical standards.

12 7. Cosmetic restoration will be done to the decedent's body, if appropriate.

13 (b) A coroner or medical examiner who releases, and permits the removal of a  
14 part under this subsection shall maintain a permanent record of the name of the  
15 decedent, the name of the person making the request, the date and purpose of the  
16 request, the part requested, and the name of the person to whom it was released.

17 **(23m)** AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; POTENTIAL DONATIONS  
18 OF ORGANS AND TISSUE. (a) Subject to par. (b), for a decedent who meets the criteria  
19 for a determination of death under s. 146.71, who is a donor, and who is within the  
20 jurisdiction of a coroner or medical examiner under ch. 979, any vascularized organ  
21 that is the subject of an anatomical gift may be removed by a physician, within a time  
22 period compatible with preservation of the organ for purposes of transplantation or  
23 therapy, if all of the following take place:

24 1. Immediately after the hospital in which the donor or potential donor is  
25 located contacts the organ procurement organization designated for the region of

1     which the hospital is a part concerning the potential donation, the organ  
2     procurement organization shall, by oral conversation, provide notice to the coroner  
3     or medical examiner or his or her designee of the referral of the donor or potential  
4     donor and shall provide notice of the referral to the district attorney or his or her  
5     designee.

6             2. The coroner or medical examiner or his or her designee has the opportunity  
7     to be present during the scheduled removal of the vascularized organ if, in the  
8     judgment of the coroner, medical examiner, or designee, the organ may be necessary  
9     in determining the cause of death.

10            (b) If, in the judgment of the coroner, medical examiner, or designee specified  
11     in par. (a) the vascularized organ may be necessary in determining the cause of  
12     death, the coroner, medical examiner, or designee may order a biopsy of the  
13     vascularized organ or, if the coroner, medical examiner, or designee is present during  
14     the scheduled removal, he or she may deny removal of the vascularized organ. If  
15     denial of removal is a possibility, the organ procurement organization shall make a  
16     good faith effort to consult with a forensic pathologist designated by the coroner,  
17     medical examiner, or designee as to the pathologist's opinion concerning the  
18     necessity of the vascularized organ in determining the cause of death. If the biopsy  
19     is ordered or the removal is denied, the coroner, medical examiner, or designee shall  
20     specify, in writing as part of any death report required under ch. 979, any reasons  
21     for determining that the vascularized organ may be involved in the cause of death.

22            (c) For a decedent specified under par. (a), as authorized under the  
23     requirements of this section by the coroner, medical examiner, or designee with  
24     jurisdiction over the decedent, any part other than a vascularized organ that is a  
25     subject of an anatomical gift may be removed by a physician and any part that is

1 tissue or bone may be removed by a technician or tissue bank employee, within a time  
2 period compatible with preservation of the part for purposes of transplantation or  
3 therapy.

4 (d) A physician, technician, or tissue bank employee who removes  
5 cardiovascular tissue from a decedent under this subsection shall, upon request of  
6 the coroner or medical examiner, file with the coroner or medical examiner with  
7 jurisdiction over the decedent a report detailing the condition of the cardiovascular  
8 tissue and its relationship to the cause of death. The report may include a biopsy or  
9 medically approved sample, if available, from the part.

10 (e) 1. A physician who removes an organ from a decedent under this subsection  
11 shall complete a form, as specified in sub. (26m) (a).

12 2. A physician, technician, or tissue bank employee who removes tissue, other  
13 than cardiovascular tissue, from a decedent under this subsection shall complete a  
14 form, as specified in sub. (26m) (b).

15 3. After completing a form under this paragraph, the physician, technician, or  
16 tissue bank employee shall transmit the form to the coroner or medical examiner  
17 with jurisdiction over the decedent.

18 **(24m)** AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; TISSUE BANKS. (a) 1. If  
19 a decedent is within the custody of a coroner or medical examiner, and the death  
20 occurred in a hospital, any release of the decedent for potential donation of tissue  
21 shall be to the tissue bank with which the hospital has an agreement under sub.  
22 (14m) (a) 2. However, if such a tissue bank is unwilling to receive the tissue donation,  
23 the tissue bank shall so notify the coroner or medical examiner.

24 2. Upon receipt of a notification under subd. 1., the coroner or medical examiner  
25 may notify any other tissue bank with which the coroner or medical examiner has

1 an agreement under par. (b) of the availability of the decedent as a potential tissue  
2 donor.

3 3. Upon receipt of a notification under subd. 2., the tissue bank so notified, if  
4 willing to receive the tissue donation, shall contact a reasonably available person,  
5 under the priority established in sub. (9), to request that the person make an  
6 anatomical gift of all or a part of the decedent's tissue.

7 4. If the coroner or medical examiner informs the hospital that subds. 2. and  
8 3. apply and that consent has been given for an anatomical gift, the hospital shall  
9 transfer the decedent to the coroner or medical examiner.

10 (b) When a decedent is within the custody of a coroner or medical examiner, the  
11 death occurred outside a hospital or the decedent was transferred to the coroner or  
12 medical examiner under par. (a) 4., and the coroner or medical examiner refers the  
13 decedent as a potential tissue donor, any such referral shall be made under the  
14 following conditions:

15 1. Subject to subds. 2., 3., and 4., the coroner or medical examiner, after  
16 considering a tissue bank's history, services, traditional referral patterns,  
17 geographic service area, and tissue distribution record and any other criteria  
18 required for consideration by the corporation counsel of the applicable county, enters  
19 into a written, general referral agreement with one or more tissue banks to which  
20 the coroner or medical examiner shall refer decedents for potential donation of  
21 tissue.

22 2. Any agreement under subd. 1. is subject to review and approval by all of the  
23 the following:

24 a. The corporation counsel of the applicable county.

1           b. The county board of the applicable county. Within 60 days after any approval  
2           by the corporation counsel and transmittal of the agreement to the county board, the  
3           county board may approve or disapprove the agreement. If the county board takes  
4           no action, the agreement is approved.

5           3. A tissue bank under this paragraph is accredited by the American  
6           Association of Tissue Banks or audited at least once every 2 years by an organization  
7           that is accredited by the American Association of Tissue Banks.

8           4. All of the following applies to an agreement by a coroner or medical examiner  
9           with one or more tissue banks to which the coroner or medical examiner refers  
10          decedents for potential donation of tissue:

11          a. Any such agreement that is entered into after April 13, 2006, shall conform  
12          to the requirements of subds. 1. to 3.

13          b. Any such agreement that exists on April 13, 2006, shall conform to the  
14          requirements of subds. 1. to 3. by October 1, 2007, unless the agreement expires  
15          before that date and is not renegotiated or renewed under subd. 4. a.

16          **(25m)** CONSENT FOR OR LIMITATION ON CERTAIN USES OF BONES OR TISSUE;  
17          REQUIREMENTS. (a) A hospital, organ procurement organization, tissue bank, coroner,  
18          or medical examiner that provides a record of gift to a person who may make an  
19          anatomical gift under sub. (4) or (9) shall include in the record of gift the following  
20          sentences: "I understand that donated bones or tissues, including skin, may have  
21          numerous uses, including for reconstructive and cosmetic purposes, and that  
22          multiple organizations, including nonprofit and for-profit organizations, may  
23          recover, process, or distribute the donations. I further understand that I may, by this  
24          record, limit the use of the bones or tissues, including skin, that are donated or types  
25          of organizations that recover, process, or distribute the donation."

1 (b) The record of gift under par. (a) shall include, following the 2nd sentence  
2 required in par. (a), all of the following:

3 1. A line or space for the person who may make an anatomical gift to sign to  
4 acknowledge that he or she has read the sentences specified in par. (a) or that the  
5 sentences have been read aloud to him or her. Except in cases in which an anatomical  
6 gift is executed by means that do not require the person making the anatomical gift  
7 to sign a record of gift, failure of the person making the anatomical gift to sign in the  
8 line or space is a refusal to make or an objection to making an anatomical gift of bones  
9 or tissues.

10 2. A line or space for the person making the anatomical gift to sign and specify  
11 a limitation, if any, on the use of bones or tissues or on the types of organizations that  
12 recover, process, or distribute the donation.

13 (c) If a person makes anatomical gift in the manner provided in sub. (10) (a) 2.  
14 or 3., the individual receiving the oral communication shall read aloud to the person,  
15 the sentences required under par. (a). If the anatomical gift is made in the manner  
16 provided in sub. (10) (a) 3., the individual who reduces the anatomical gift to a record  
17 shall note on the record that the person making the anatomical gift has been read  
18 the sentences required under par. (a) and note any limitations that the person  
19 making the anatomical gift imposes on the use of any bones or tissues that are the  
20 subject of the anatomical gift or any limitations on the types of organizations that  
21 recover, process, or distribute such bones or tissues.

22 (d) If a person who may make an anatomical gift under sub. (4) or (9) makes  
23 an anatomical gift under this subsection, the hospital, organ procurement  
24 organization, tissue bank, coroner, or medical examiner that provides to the person



1 a record of gift under par. (a) shall also provide the person with the telephone number  
2 and address of the agency or organization that recovers the anatomical gift.

3 (e) The requester under par. (a) shall provide the person who may make an  
4 anatomical gift under sub. (4) or (9) with a copy of any record of gift executed under  
5 the requirements of this subsection.

6 **(26m)** FORMS FOR REMOVAL OF ORGANS AND CERTAIN TISSUES; RULES. The  
7 department of health and family services shall promulgate rules prescribing all of  
8 the following:

9 (a) A form for removal of organs for use under sub. (23m) (e) 1. and 3.

10 (b) A form for removal of tissue, other than cardiovascular tissue, for use under  
11 sub. (23m) (e) 2. and 3.

12 **(27m)** PENALTY. Whoever fails to comply with the requirement to provide  
13 sentences under sub. (25m) (a) or (c) may be subject to a forfeiture of not less than  
14 \$500 nor more than \$1,000 for each violation.

15 **(28m)** EFFECT OF PRIOR DOCUMENT OF GIFT. Notwithstanding the requirements  
16 of this section, a document of gift that was made under the requirements of s. 157.06,  
17 1987 stats., or s. 157.06, 2005 stats., is deemed to comply with the requirements of  
18 this section.

19 **SECTION 7.** 230.35 (2d) (a) 2. of the statutes is amended to read:

20 230.35 **(2d)** (a) 2. "Human organ" ~~has the meaning given for "vascularized~~  
21 ~~organ" in s. 157.06 (1) (L)~~ means a heart, lung, liver, pancreas, kidney, intestine, or  
22 other organ that requires the continuous circulation of blood to remain useful for  
23 purposes of transplantation.

24 **SECTION 8.** 252.15 (2) (a) 1. and (am) 1. and 2. and (5) (a) 5. of the statutes are  
25 amended to read:

1           252.15 (2) (a) 1. Except as provided in subd. 1g., a health care provider who  
2       procures, processes, distributes or uses a human body part or human tissue donated  
3       ~~as specified under s. 157.06 (6) (a) or (b)~~ that is the subject of an anatomical gift under  
4       157.06 shall, without obtaining consent to the testing, test for the presence of HIV,  
5       antigen or nonantigenic products of HIV or an antibody to HIV in order to assure  
6       medical acceptability of the gift for the purpose intended. The health care provider  
7       shall use as a test for the presence of HIV, antigen or nonantigenic products of HIV  
8       or an antibody to HIV a test or series of tests that the state epidemiologist finds  
9       medically significant and sufficiently reliable to detect the presence of HIV, antigen  
10      or nonantigenic products of HIV or an antibody to HIV. If the validated test result  
11      of the donor from the test or series of tests performed is positive, the human body part  
12      or human tissue donated for use or proposed for donation may not be used.

13           (am) 1. A health care provider who procures, processes, distributes or uses  
14      human sperm ~~donated as specified under s. 157.06 (6) (a) or (b)~~ that is the subject of  
15      an anatomical gift under 157.06 shall, prior to the distribution or use and with  
16      informed consent under the requirements of par. (b), test the proposed donor for the  
17      presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in  
18      order to assure medical acceptability of the gift for the purpose intended. The health  
19      care provider shall use as a test for the presence of HIV, antigen or nonantigenic  
20      products of HIV or an antibody to HIV a test or series of tests that the state  
21      epidemiologist finds medically significant and sufficiently reliable under s. 252.13  
22      (1r) to detect the presence of HIV, antigen or nonantigenic products of HIV or an  
23      antibody to HIV. The health care provider shall test the donor initially and, if the  
24      initial test result is negative, shall perform a 2nd test on a date that is not less than  
25      180 days from the date of the procurement of the sperm. No person may use the

1 donated sperm until the health care provider has obtained the results of the 2nd test.  
2 If any validated test result of the donor for the presence of HIV, antigen or  
3 nonantigenic products of HIV or an antibody to HIV is positive, the sperm donated  
4 for use may not be used and, if donated, shall be destroyed.

5 2. A health care provider who procures, processes, distributes or uses human  
6 ova ~~donated as specified under s. 157.06 (6) (a) or (b)~~ that are the subject of an  
7 anatomical gift under s. 157.06 shall, prior to the distribution or use and with  
8 informed consent under the requirements of par. (b), test the proposed donor for the  
9 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in  
10 order to assure medical acceptability of the gift for the purpose intended.

11 (5) (a) 5. To a health care provider who procures, processes, distributes or uses  
12 a human body part ~~donated as specified under s. 157.06 (6) (a) or (b)~~ that is the subject  
13 of an anatomical gift under s. 157.06, for the purpose of assuring medical  
14 acceptability of the gift for the purpose intended.

15 **SECTION 9.** 343.17 (3) (b) of the statutes is amended to read:

16 343.17 (3) (b) The reverse side of the license shall contain an explanation of any  
17 restriction codes or endorsement abbreviations used on the front of the license, in  
18 sufficient detail to identify the nature of the restrictions or endorsements to a law  
19 enforcement officer of this state or another jurisdiction. Except for a commercial  
20 driver license, a part of the reverse side of each license shall be printed to serve as  
21 a document record of gift under s. 157.06 (2) ~~(b) and (c)~~ (t) or a document record of  
22 refusal to ~~make an anatomical gift~~ under s. 157.06 (2) ~~(i)~~ (u).

23 **SECTION 10.** 343.175 (1) of the statutes is amended to read:

24 343.175 (1) DEPARTMENT TO SOLICIT AND RECORD INFORMATION. As part of every  
25 application for an original, duplicate, reinstated, reissued or renewal license or

1 endorsement, the department shall inquire whether the applicant desires to be an  
2 organ donor. The department shall record the organ donor response in its file of the  
3 person. If a procurement organization, as defined in s. 157.06 (2) (p), reasonably  
4 identifies a person and requests the information recorded in the person's file under  
5 this subsection, the department shall promptly provide this information to the  
6 procurement organization.

7 **SECTION 11.** 343.175 (1r) of the statutes is amended to read:

8 343.175 (1r) DEPARTMENT TO PROVIDE INFORMATION. In addition to the inquiry  
9 under sub. (1), if the applicant is at least ~~18~~ 15 and one-half years of age, the  
10 department shall orally state to the applicant that he or she has the opportunity to  
11 indicate his or her willingness to be an organ donor. If the applicant indicates that  
12 he or she is undecided in response to the inquiry under sub. (1), the department shall  
13 provide the applicant with written information that all organ procurement  
14 organizations and the department have together developed. If the applicant makes  
15 an affirmative response to the inquiry under sub. (1), the department shall request  
16 at that time that the applicant write on the license the information that is specified  
17 under sub. (2) (ar) and affix a sticker, as described in sub. (3) (a), to the front side of  
18 the license document.

19 **SECTION 12.** 343.175 (2) (title) of the statutes is amended to read:

20 343.175 (2) (title) ~~DOCUMENT~~ RECORD OF GIFT OR REFUSAL.

21 **SECTION 13.** 343.175 (2) (a) of the statutes is amended to read:

22 343.175 (2) (a) Except as provided in par. (ag), a part of the reverse side of each  
23 license shall be printed to serve as a ~~document~~ record of gift under s. 157.06 (2) (b)  
24 and (e) (t) or a ~~document~~ record of refusal ~~to make an anatomical gift~~ under s. 157.06  
25 (2) (i) (u).

1           **SECTION 14.** 343.175 (2) (ag) of the statutes is amended to read:

2           343.175 (2) (ag) The department shall print a separate document to be issued  
3           to all persons issued a commercial driver license and make provisions so that the  
4           document may be attached to the reverse side of the license document along one edge.  
5           This document shall serve as a document record of gift under s. 157.06 (2) ~~(b) and (e)~~  
6           ~~(t)~~ or a document record of refusal ~~to make an anatomical gift~~ under s. 157.06 (2) ~~(i)~~  
7           (u).

8           **SECTION 15.** 343.175 (3) (a) of the statutes is renumbered 343.175 (3).

9           **SECTION 16.** 343.175 (3) (b) of the statutes is repealed.

10          **SECTION 17.** 343.50 (3) of the statutes is amended to read:

11          343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as  
12          an operator's license but shall be of a design which is readily distinguishable from  
13          the design of an operator's license and bear upon it the words "IDENTIFICATION  
14          CARD ONLY". The information on the card shall be the same as specified under s.  
15          343.17 (3). The card may serve as a document record of gift under s. 157.06 (2) ~~(b)~~  
16          ~~and (e) (t)~~ and the holder may affix a sticker thereto as provided in s. 343.175 (3).  
17          The card may also serve as a document record of refusal ~~to make an anatomical gift~~  
18          under s. 157.06 (2) ~~(i)~~ (u). The card shall contain the holder's photograph and, if  
19          applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

20          **SECTION 18.** 343.50 (4m) (a) of the statutes is amended to read:

21          343.50 (4m) (a) As part of every application for an identification card, the  
22          department shall inquire whether the applicant desires to be an organ donor. The  
23          department shall record the organ donor response in its file of the person. If a  
24          procurement organization, as defined in s. 157.06 (2) (p), reasonably identifies a  
25          person and requests the information recorded in the person's file under this

1 paragraph, the department shall promptly provide this information to the  
2 procurement organization.

3 **SECTION 19.** 343.50 (4m) (b) of the statutes is amended to read:

4 343.50 (4m) (b) In addition to the inquiry under par. (a), if the applicant is at  
5 least ~~18~~ 15 and one-half years of age, the department shall orally state to the  
6 applicant that he or she has the opportunity to indicate his or her willingness to be  
7 an organ donor. If the applicant indicates that he or she is undecided in response to  
8 the inquiry under par. (a), the department shall provide the applicant with written  
9 information that all organ procurement organizations and the department have  
10 together developed. If the applicant makes an affirmative response to the inquiry  
11 under par. (a), the department shall request at that time that the applicant write on  
12 the identification card the information that is required to make an anatomical gift  
13 under s. 157.06 ~~(2) (b) and (c)~~ (5) and affix a sticker thereto as provided in s. 343.175  
14 (3).

15 **SECTION 20.** 343.50 (8) (b) of the statutes is amended to read:

16 343.50 (8) (b) The department may not disclose any record or other information  
17 concerning or relating to an applicant or identification card holder to any person  
18 other than a court, district attorney, county corporation counsel, city, village or town  
19 attorney, law enforcement agency, a procurement organization as provided in sub.  
20 (4m) (a), the applicant or identification card holder or, if the applicant or  
21 identification card holder is under 18 years of age, his or her parent or guardian.  
22 Except for photographs disclosed to a law enforcement agency under s. 343.237,  
23 persons entitled to receive any record or other information under this paragraph  
24 shall not disclose the record or other information to other persons or agencies. This  
25 paragraph does not prohibit the disclosure of a person's name or address, of the name

1 or address of a person's employer or of financial information that relates to a person  
2 when requested under s. 49.22 (2m) by the department of workforce development or  
3 a county child support agency under s. 59.53 (5).

4 **SECTION 21. Initial applicability.**

5 (1) This act first applies to any of the following that occur on the effective date  
6 of this subsection:

- 7 (a) A request that another make an anatomical gift.  
8 (b) The making, amendment, or revocation of an anatomical gift.  
9 (c) The refusal to make an anatomical gift.  
10 (d) The distribution of a body or part that is the subject of an anatomical gift.  
11 (e) The issuance of a driver's license or identification card.

12 (END)